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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,320	07/13/2004	Micah A. Carlson	1813-8124	6124

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EXAMINER

ROGERS, DAVID A

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/501,320

Applicant(s)

CARLSON ET AL.

Examiner

David A. Rogers

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-12, 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20040713</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 13-16 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by United States Patent 6,684,682 to Stemmler *et al.*

Stemmler *et al.* discloses a method for screening mail for the presence of biological or non-biological contaminants comprising the steps of opening each mail piece, jogging the mail pieces, and compressing the mail pieces. The expelled air is analyzed for the presence of contaminants.

As disclosed on column 5, lines 51-64:

The compression of the mailpieces 87 during the vibration cycle allows air inside the mailpieces 87 to be expelled through their opened corners. If powdered biological material is present inside the mailpieces 87, some of the biological powder will be carried with the expelled air. This powder will fall through the opening 55 and into the second chamber 60. The vacuum and HEPA filter system 15 will draw the powder material through the ductwork 23 such that most of it will be captured by the HEPA filter system 15 while some of it will flow to the air-monitoring systems 19, 21. Once the paddle 62 is retracted such that the mailpieces 87 are allowed to decompress, biological powder can still pass through the corner opening of the mailpieces 87 and through the opening 55 during the vibration of the jogging tray 43.

Clearly Stemmler *et al.* anticipates the step of compressing mailpieces simultaneously with jogging. Furthermore, the vacuum system inherently causes airflow over the mailpieces and the filter acts as a concentrator. The filter is tested/analyzed to confirm the results of the particle sensor. See also steps 317, 319, and 320 as shown in figure 3.

On column 3, lines 20-25 Stemmler *et al.* states

The jogger system 11 is enclosed and connected to the ducting 23 such that some of the powder material will be pulled from the jogger 11 toward the vacuum system 15 (313). As the powder material flows toward the vacuum system 15, portions of it are directed to the first and second air monitoring systems 19, 21 (315). The second monitoring system 21 detects the particle size of any powder material that is present and performs a particle size analysis. Based on the particle size analysis, the potential presence of a biological hazard may be indicated (317).

It is clear that Stemmler *et al.* requires a comparison of the detected size to a predetermined size; i.e., a threshold, in order to determine the potential presence of biological hazards.

Response to Arguments

3. The applicant's arguments filed 28 April 2006 with regard to amended claims 13-16 have been fully considered but they are not persuasive. The applicant argues that Stemmler *et al.* does not teach an analysis step using threshold detection. However, as noted above, the analysis of particles in the process of Stemmler *et al.* requires a comparison of the detected size to a predetermined size; i.e., a threshold, in order to determine the potential presence of biological hazards.


Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Rogers whose telephone number is (571) 272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


dar
29 May 2006


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